

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Brian Keith Alford,	:	
	:	
Plaintiff,	:	Case No. 3:21-cv-01123
	:	
v.	:	
	:	Judge James G. Carr
	:	
Robert Zilles, <i>et al.</i>,	:	Magistrate Judge Darrell A. Clay
	:	
Defendants.	:	

DEFENDANTS' STATUS REPORT

Now come Plaintiff, through counsel, and Defendants, Candy Babb, Anitra Barker, Derek Burkhart, and Dr. Dela Cruz, through counsel, who hereby submit this status report pursuant to the Minute Order.

Plaintiff initially filed his complaint against Candy Babb, Barker, Derek Burkhart, DeLa Cruz, Robert Zilles on April 16, 2021 (Doc 1). Thereafter, he filed an Amended Complaint on August 18, 2021 against Candy Babb, Barker, Derek Burkhart, DeLa Cruz, Robert Zilles Dennis Seger and Dr. Porter (Doc. 11). On November 17, 2021, this Court dismissed the action (Doc. 19). Thereafter, Plaintiff filed an appeal with the Sixth Circuit Court of Appeals (Doc. 20). On June 13, 2023, the Sixth Circuit issued its mandate, affirming in part, vacating in part, and remanding for further proceedings as to the Notice of Appeal (Doc. 24). After dismissing the remainder of his claims, the Sixth Circuit determined that Plaintiff stated a claim regarding the denial of properly fitted footwear needed due to circulation, neuropathy, balance, scoliosis, and degenerative spine disorder (Case 22-3416, Doc. 15-2, issued 05/22/2023).

On July 4, 2023, service was issued. Answers were filed by Anitra Barker and Derek Burkhart on August 10, 2023 (Doc. 28); Dr. DeLa Cruz on August 28, 2023 (Doc. 29); Candy Babb on September 7, 2023 (Doc. 30); and Dennis Seger on January 3, 2024 (Doc. 35). As of the date of this joint status report, two defendants have not been served.

On March 25, 2024, this Court held a Case Management Conference. Pat Horner, counsel for Plaintiff, and counsel for all served Defendants attended and agreed that Plaintiff's counsel would provide information about alternative footwear that she believes will accommodate the needs of the Plaintiff and Defense counsel would respond. The parties complied with the order. Defendants, through counsel, then submitted a settlement offer, which was rejected by Plaintiff, through Plaintiff's former counsel. The parties do not believe that additional settlement efforts would be fruitful at this time.

A second status conference was held after Plaintiff was uncertain if he wished to continue with representation or proceed pro se. He ultimately decided to proceed with representation and his counsel filed notification confirming the same. Counsel for both sides conferred and now request that the matter be allowed to proceed as follows:

Defendants request that all discovery shall be completed by **December 14, 2024**. The parties agree to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call -in number.

The Deposition of Defendant Dennis Segar shall be scheduled for **September 20, 2024**, time and location TBA by mutual agreement. The Deposition of Defendant Candy Babb shall be scheduled for **October 7, 2024**, time and location TBA by mutual agreement, pending confirmation of her availability. Should she not be available for that date, then the parties shall work together to confirm a mutually agreeable time and location and her deposition shall take place prior to the discovery cut-off. Plaintiff, through counsel is responsible for arranging the court reporter and the location of these depositions.

All Dispositive motions shall be filed by **January 14, 2025**. Any responses to the same shall be filed by **February 14, 2025**. Any replies shall be filed by **March 14, 2025**.

Primary expert reports must be produced by **October 14, 2024**.

Rebuttal expert reports must be produced by **November 14, 2024**.

Trial date to be set after the resolution of dispositive motions.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

s/ Patricia Horner
PATRICIA HORNER (0039912)
P.O. Bos 5730, Toledo, OH 43613
419-699-6163
AttorneyPath@gmail.com
Counsel for Plaintiff

s/Marcy A. Vonderwell
MARCY A. VONDERWELL (0078311)
Senior Assistant Attorneys General
Criminal Justice Section
30 E. Broad Street, 23rd Floor
Columbus, Ohio 43215-3428
(614) 728-7056; (fax) (866) 401-2830
Marcy.Vonderwell@OhioAGO.gov
Counsel for Defendants